

**ORIGINAL**

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

CC Docket No. 94-1

In the Matter of )

Price Cap Performance Review for )  
Local Exchange Carriers )

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**REPLY COMMENTS OF LDDS WORLDCOM**

WorldCom, Inc., d/b/a LDDS WorldCom ("LDDS WorldCom"), hereby files its reply to the initial comments filed on or before January 16, 1996 in response to the Fourth Further Notice of Proposed Rulemaking ("Notice"), FCC 95-406, released by the Commission in the above-referenced proceeding on September 27, 1995.<sup>1</sup>

**I. INTRODUCTION AND SUMMARY**

As the fourth largest facilities-based long distance carrier in the United States, LDDS WorldCom has a substantial interest in the outcome of this proceeding. LDDS WorldCom -- both for itself and via one of its predecessor companies, WilTel, Inc. -- has been a very active participant in the various phases of the Commission's LEC price caps proceeding.<sup>2</sup>

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<sup>1</sup> The initial comments were originally due on November 27, 1995, but that date was extended to December 18 by the Commission, and then to January 16, 1996, following the shutdown of the federal government due to budget-related furloughs and inclement weather.

<sup>2</sup> See, e.g., Comments of LDDS WorldCom, CC Docket No. 94-1, filed December 11, 1995 ("WorldCom Price Caps Framework Comments"); Reply Comments of LDDS WorldCom, CC Docket No. 94-1, filed February 6, 1995 ("WorldCom Price Caps Framework Reply Comments"); Response of LDDS Communications, Inc. to January 18, 1995 USTA Ex Parte Filing, CC Docket No. 94-1, filed February 8, 1995; Comments of WilTel, Inc., CC Docket No. 94-1, filed May 9, 1994; Reply Comments of WilTel, Inc., CC Docket No. 94-1, filed June 29, 1994.

Most recently, LDDS WorldCom filed comments in strong opposition to the Commission's proposal in its companion proceeding to provide the LECs with substantial additional pricing flexibility under price caps.<sup>3</sup> In those comments, LDDS WorldCom demonstrated that the Commission needs to address fundamental discrimination incentives and opportunities open to the LECs by adopting new regulatory mechanisms to supplement price caps.

In this proceeding, LDDS WorldCom agrees with many of the views advanced in initial comments by AT&T, MCI, the Ad Hoc Telecommunications Users Committee, the International Communications Association, and the Telecommunications Resellers Association. In particular, the record is clear that: (1) the X-Factor should be set substantially higher than the current ceiling of 5.3, (2) the flawed TFP methodology should not be used, especially if based on total company productivity, and (3) a comprehensive reform of the interstate access charge system is necessary to move access rates closer to actual cost.

## **II. LDDS WORLDCOM STRONGLY SUPPORTS TIMELY COMMISSION ACTION TO REVISE THE CURRENT PRICE CAPS REGIME IN ORDER TO DRIVE INTERSTATE ACCESS CHARGE RATES CLOSER TO COST**

It is an undisputed fact that interstate access charges levied on interexchange carriers ("IXCs") by local exchange carriers ("LECs") are set far above cost. Pending long-awaited action by the FCC to undertake a comprehensive reform of its access charge rules, the current Part 69 regime represents a subsidy-laden means of enriching the LECs at the expense of IXCs and their customers. Given this compelling scenario, LDDS WorldCom believes that

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<sup>3</sup> See WorldCom Price Caps Framework Comments; WorldCom Price Caps Framework Reply Comments.

the issue of the proper ceilings to be placed on the LECs' interstate access prices is one of the primary policy questions now confronting the Commission. It is an issue which must be addressed in a timely and forceful manner.

LDDS WorldCom strongly endorses the views expressed in initial comments filed by fellow members of the Customers for Access Rate Equity ("CARE") Coalition, including AT&T, MCI, the Ad Hoc Telecommunications Users Committee ("Ad Hoc"), the International Communications Association ("ICA"), and the Telecommunications Resellers Association ("TRA"). Their collective call for prompt Commission action to revise the LEC price cap formula is powerful testament to the broad evidentiary support for lower interstate access charge rates.

First, LDDS WorldCom agrees with many commenters that the productivity index (the so-called "X-Factor") should be adjusted substantially higher than the current 5.3 ceiling. It is important to note that, despite sharp attacks by some of the LECs on any X-Factor higher than 2.3, five of the seven Bell Companies, and GTE, chose the highest 5.3 X-Factor in the latest phase of the price caps proceeding.<sup>4</sup> Ad Hoc's comments, and the accompanying report by Economics and Technology, Inc., cogently argue that the X-Factor should be substantially higher than 5.3; in fact, a figure of 9.9 is called for under USTA's own cost study, once it has been corrected for serious flaws.<sup>5</sup> AT&T believes that an X-Factor of at least 8.8 is appropriate.<sup>6</sup> LDDS WorldCom agrees that an X-Factor far above 5.3, and approaching double

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<sup>4</sup> AT&T Comments at 26.

<sup>5</sup> Ad Hoc Comments at 3-4.

<sup>6</sup> AT&T Comments at 32.

digits, is required by all the evidence presented in this proceeding.

Because each LEC faces unique cost and revenue structures, it would be reasonable to allow the LECs to continue to have the flexibility to choose between at least two different X-Factors.<sup>7</sup> However, a moving or "rolling" average should not be used for calculating the X-Factor because such an average would do nothing to incent the LECs to reduce their costs.<sup>8</sup> Instead, a periodic update of the X-Factor, such as every three or four years, would be sufficient. Moreover, as ICA suggests, LEC earnings should continue to be used by the FCC as a necessary check on actual performance of the price cap plan.<sup>9</sup> Finally, as part of increasing the X-Factor, the Commission should retain the sharing mechanism as an important "safety valve" to encourage the LECs to price their access services closer to cost.<sup>10</sup>

Second, the Commission should not adopt a Total Factor Productivity ("TFP") methodology for the X-Factor.<sup>11</sup> In particular, the Commission lacks authority to base a TFP on total company productivity for use in the long-term price caps plan. It is axiomatic that the FCC only has jurisdiction to regulate the LECs' interstate rates.<sup>12</sup> Anything more would violate the careful jurisdictional balance struck in the Communications Act of 1934, as amended,

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<sup>7</sup> AT&T Comments at 30-33; ICA Comments at 10.

<sup>8</sup> AT&T Comments at 33-34; MCI Comments at 11-12, 14-17; TRA Comments at 6-7; ICA Comments at 9.

<sup>9</sup> ICA Comments at 9.

<sup>10</sup> MCI Comments at 19-22; Ad Hoc Comments at 7; TRA Comments at 7-9.

<sup>11</sup> See, e.g., MCI Comments at 5-11.

<sup>12</sup> See Ad Hoc Comments at 6-7.

as well as the Supreme Court's earlier decision in Smith v. Illinois Bell Telephone Co.<sup>13</sup> In addition, using a total company productivity figure would result in artificially high interstate service rates, skewing the resulting calculations of the X-Factor.<sup>14</sup> Moreover, one commenter notes that the TFP approach is not well developed, or even accepted, by most economists, and remains under constant review in the academic world.<sup>15</sup> Additionally, as several commenters observe, the supporting data used in the USTA study is not readily accessible or verifiable, even to the Commission, and will require substantial FCC resources to administer and monitor.<sup>16</sup> Clearly the numerous significant costs of using a TSP approach far outweigh the nebulous benefits claimed by the LECs.

Finally, LDDS WorldCom urges the Commission to move now to address the critical issue of above-cost access charges.<sup>17</sup> So long as the current interstate access charge system remains in place, the LECs will continue to charge access providers at rates which exceed the actual cost of providing services many times over. If properly set and monitored, price caps can help limit, and even roll back to some extent, some of the excess LEC access rates. Only comprehensive access charge reform, however, will actually drive access rates to cost.

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<sup>13</sup> 282 U.S. 133 (1930).

<sup>14</sup> TRA Comments at 5.

<sup>15</sup> ICA Comments at 6.

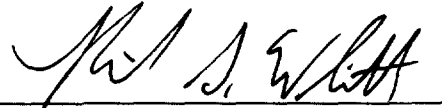
<sup>16</sup> AT&T Comments at 9-11; TRA Comments at 4; ICA Comments at 6-7.

<sup>17</sup> MCI Comments at 12-13.

### **III. CONCLUSION**

The Commission should revise its LEC price caps regime in accordance with the views expressed herein.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Catherine R. Sloan", written over a horizontal line.

Catherine R. Sloan  
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March 1, 1996

**CERTIFICATE OF SERVICE**

I, Cecelia Johnson, hereby certify that I have this 1st day of March, 1996, sent a copy of the foregoing "Reply Comments of LDDS WorldCom" by hand delivery to the following:

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